

109TH CONGRESS
1ST SESSION

S. 646

To amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2005

Mr. BUNNING (for himself, Mrs. LINCOLN, Mr. LOTT, Mr. BOND, and Mr. CHAMBLISS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Domestic Spirits Tax
5 Equity Act of 2005”.

1 **SEC. 2. INCOME TAX CREDIT FOR DISTILLED SPIRITS**
 2 **WHOLESALE AND FOR DISTILLED SPIRITS**
 3 **IN CONTROL STATE BAILMENT WAREHOUSES**
 4 **FOR COSTS OF CARRYING FEDERAL EXCISE**
 5 **TAXES ON BOTTLED DISTILLED SPIRITS.**

6 (a) IN GENERAL.—Subpart A of part I of subchapter
 7 A of chapter 51 of the Internal Revenue Code of 1986
 8 (relating to gallonage and occupational taxes) is amended
 9 by adding at the end the following new section:

10 **“SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF**
 11 **CARRYING EXCISE TAX.**

12 “(a) IN GENERAL.—For purposes of section 38, the
 13 amount of the distilled spirits credit for any taxable year
 14 is the amount equal to the product of—

15 “(1) in the case of—

16 “(A) any eligible wholesaler—

17 “(i) the number of cases of bottled
 18 distilled spirits—

19 “(I) which were bottled in the
 20 United States, and

21 “(II) which are purchased by
 22 such wholesaler during the taxable
 23 year directly from the bottler of such
 24 spirits, or

25 “(B) any person which is subject to section
 26 5005 and which is not an eligible wholesaler,

1 the number of cases of bottled distilled spirits
2 which are stored in a warehouse operated by, or
3 on behalf of, a State, or agency or political sub-
4 division thereof, on which title has not passed
5 on an unconditional sale basis, and

6 “(2) the average tax-financing cost per case for
7 the most recent calendar year ending before the be-
8 ginning of such taxable year.

9 “(b) ELIGIBLE WHOLESALER.—For purposes of this
10 section, the term ‘eligible wholesaler’ means any person
11 which holds a permit under the Federal Alcohol Adminis-
12 tration Act as a wholesaler of distilled spirits which is not
13 a State, or agency or political subdivision thereof.

14 “(c) AVERAGE TAX-FINANCING COST.—

15 “(1) IN GENERAL.—For purposes of this sec-
16 tion, the average tax-financing cost per case for any
17 calendar year is the amount of interest which would
18 accrue at the deemed financing rate during a 60-day
19 period on an amount equal to the deemed Federal
20 excise tax per case.

21 “(2) DEEMED FINANCING RATE.—For purposes
22 of paragraph (1), the deemed financing rate for any
23 calendar year is the average of the corporate over-
24 payment rates under paragraph (1) of section
25 6621(a) (determined without regard to the last sen-

1 tence of such paragraph) for calendar quarters of
2 such year.

3 “(3) DEEMED FEDERAL EXCISE TAX PER
4 CASE.—For purposes of paragraph (1), the deemed
5 Federal excise tax per case is \$25.68.

6 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
7 For purposes of this section—

8 “(1) CASE.—The term ‘case’ means 12 80-
9 proof 750 milliliter bottles.

10 “(2) NUMBER OF CASES IN LOT.—The number
11 of cases in any lot of distilled spirits shall be deter-
12 mined by dividing the number of liters in such lot
13 by 9.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Subsection (b) of section 38 of the Internal
16 Revenue Code of 1986 is amended by striking
17 “plus” at the end of paragraph (18), by striking the
18 period at the end of paragraph (19) and inserting “,
19 plus”, and by adding at the end the following new
20 paragraph:

21 “(20) the distilled spirits credit determined
22 under section 5011(a).”.

23 (2) The table of sections for subpart A of part
24 I of subchapter A of chapter 51 of such Code is

1 amended by adding at the end the following new
2 item:

“Sec. 5011. Income tax credit for average cost of carrying excise tax.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 the date of the enactment of this Act.

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